

House File 674 - Introduced

HOUSE FILE _____
BY GRANZOW

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for judicial branch employment and compensation
2 of patient advocates for persons involuntarily hospitalized
3 for mental illness.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2509HH 82
6 jp/es/88

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1 1 Section 1. Section 225C.4, subsection 1, paragraph m, Code
1 2 2007, is amended to read as follows:
1 3 m. Provide consultation and technical assistance to
1 4 ~~patients~~ patient advocates appointed pursuant to section
1 5 229.19, in cooperation with the judicial branch and the
1 6 resident advocate committees appointed for health care
1 7 facilities pursuant to section 135C.25.

1 8 Sec. 2. Section 226.31, Code 2007, is amended to read as
1 9 follows:

1 10 226.31 EXAMINATION BY COURT == NOTICE.
1 11 Before granting the order authorized in section 226.30 the
1 12 court or judge shall investigate the allegations of the
1 13 petition and before proceeding to a hearing on the allegations
1 14 shall require notice to be served on the attorney who
1 15 represented the patient in any prior proceedings under
1 16 sections 229.6 to 229.15 or the patient advocate appointed
1 17 under section 229.19, or in the case of a patient who entered
1 18 the hospital voluntarily, on any relative, friend, or guardian
1 19 of the person in question of the filing of the application.
1 20 At the hearing the court or judge shall appoint a guardian ad
1 21 litem for the person, if the court or judge deems such action
1 22 necessary to protect the rights of the person. The guardian
1 23 ad litem shall be a practicing attorney.

1 24 Sec. 3. Section 229.2, subsection 1, paragraph f, Code
1 25 2007, is amended to read as follows:

1 26 f. Upon approval of the admission of a minor over the
1 27 minor's objections, the juvenile court shall appoint an
1 28 individual to act as ~~an a patient~~ patient advocate representing the
1 29 interests of the minor in the same manner as ~~an a patient~~
1 30 advocate representing the interests of patients involuntarily
1 31 hospitalized ~~pursuant to section 229.19 under this chapter.~~

1 32 Sec. 4. Section 229.9A, Code 2007, is amended to read as
1 33 follows:

1 34 229.9A PATIENT ADVOCATE INFORMED.

1 35 The court shall direct the clerk to furnish the patient
2 1 advocate ~~of assigned to the respondent's county of legal~~
2 2 ~~settlement respondent~~ patient with a copy of the application and any
2 3 order issued pursuant to section 229.8, subsection 3. The
2 4 patient advocate may attend the hospitalization hearing of any
2 5 respondent for whom the patient advocate has received notice
2 6 of a hospitalization hearing.

2 7 Sec. 5. Section 229.12, subsection 2, Code 2007, is
2 8 amended to read as follows:

2 9 2. All persons not necessary for the conduct of the
2 10 proceeding shall be excluded, except that the court may admit
2 11 persons having a legitimate interest in the proceeding and
2 12 shall permit the patient advocate ~~from the respondent's county~~
2 13 ~~of legal settlement assigned to the respondent~~ to attend the
2 14 hearing. Upon motion of the county attorney, the judge may
2 15 exclude the respondent from the hearing during the testimony
2 16 of any particular witness if the judge determines that
2 17 witness's testimony is likely to cause the respondent severe
2 18 emotional trauma.

2 19 Sec. 6. Section 229.14A, subsection 1, Code 2007, is

2 20 amended to read as follows:

2 21 1. With respect to a chief medical officer's report made
2 22 pursuant to section 229.14, subsection 1, paragraph "b", "c",
2 23 or "d", or any other provision of this chapter related to
2 24 involuntary commitment for which the court issues a placement
2 25 order or a transfer of placement is authorized, the court
2 26 shall provide notice to the respondent and the respondent's
2 27 attorney or ~~mental health patient advocate~~ appointed pursuant
2 28 to section 229.19 concerning the placement order and the
2 29 respondent's right to request a placement hearing to determine
2 30 if the order for placement or transfer of placement is
2 31 appropriate.

2 32 Sec. 7. Section 229.15, subsection 5, Code 2007, is
2 33 amended to read as follows:

2 34 5. Upon receipt of any report required or authorized by
2 35 this section the court shall furnish a copy to the patient's
3 1 attorney, or alternatively to the patient advocate appointed
3 2 as required by section 229.19. The court shall examine the
3 3 report and take the action ~~thereon which it~~ on the report as
3 4 the court deems appropriate. Should the court fail to receive
3 5 any report required by this section or section 229.14 at the
3 6 time the report is due, the court shall investigate the reason
3 7 for the failure to report and take whatever action may be
3 8 necessary in the matter.

3 9 Sec. 8. Section 229.19, Code 2007, is amended to read as
3 10 follows:

3 11 229.19 ADVOCATES == DUTIES == COMPENSATION == STATE AND
3 12 COUNTY LIABILITY.

3 13 1. ~~The district court in each county with a population of~~
3 14 ~~under three hundred thousand inhabitants and the board of~~
3 15 ~~supervisors in each county with a population of three hundred~~
3 16 ~~thousand or more inhabitants For each judicial district, the~~
3 17 ~~chief judge of the judicial district shall appoint an at least~~
3 18 ~~one individual who has demonstrated by prior activities an~~
3 19 ~~informed concern for the welfare and rehabilitation of persons~~
3 20 ~~with mental illness, and who is not an officer or employee of~~
3 21 ~~the department of human services nor or of any agency or~~
3 22 ~~facility providing care or treatment to persons with mental~~
3 23 ~~illness, to act as patient advocate representing. A patient~~
3 24 ~~advocate shall represent the interests of patients~~
3 25 ~~involuntarily hospitalized by the court, in any matter~~
3 26 ~~relating to the patients' hospitalization or treatment under~~
3 27 ~~section 229.14 or 229.15.~~

3 28 2. ~~The court or, if the advocate is appointed by the~~
3 29 ~~county board of supervisors, the board shall assign the~~
3 30 ~~patient advocate appointed from a patient's county of legal~~
3 31 ~~settlement for each patient to represent the interests of the~~
3 32 ~~patient. If a patient has no county of legal settlement, the~~
3 33 ~~court or, if the advocate is appointed by the county board of~~
3 34 ~~supervisors, the board shall assign the advocate appointed~~
3 35 ~~from the county where the hospital or facility is located to~~
4 1 ~~represent the interests of the patient.~~

4 2 3. The patient advocate's responsibility with respect to
4 3 ~~any~~ a patient shall begin at ~~whatever~~ the time the attorney
4 4 employed or appointed to represent that patient as respondent
4 5 in hospitalization proceedings, conducted under ~~sections 229.6~~
4 6 ~~to 229.13~~ this chapter, reports to the court that the
4 7 attorney's services are no longer required and requests the
4 8 court's approval to withdraw as counsel for that patient.
4 9 However, if the patient is found to be seriously mentally
4 10 impaired at the hospitalization hearing, the attorney
4 11 representing the patient shall automatically be relieved of
4 12 responsibility in the case and ~~an~~ a patient advocate shall be
4 13 assigned to the patient at the conclusion of the hearing
4 14 unless the attorney indicates an intent to continue the
4 15 attorney's services and the court directs the attorney to do
4 16 so ~~directs~~. If the court directs the attorney to remain on
4 17 the case, the attorney shall assume all the duties of ~~an~~ a
4 18 patient advocate. The clerk shall furnish the patient
4 19 advocate with a copy of the court's order approving the
4 20 withdrawal and shall inform the patient of the name of the
4 21 patient's advocate.

4 22 4. With regard to each patient whose interests the patient
4 23 advocate is required to represent pursuant to this section,
4 24 the patient advocate's duties shall include all of the
4 25 following:

4 26 a. To review each report submitted pursuant to sections
4 27 229.14 and 229.15.

4 28 b. If the patient advocate is not an attorney, to advise
4 29 the court at any time it appears that the services of an
4 30 attorney are required to properly safeguard the patient's

4 31 interests.

4 32 c. To ~~make the advocate be~~ readily accessible to
4 33 communications from the patient and to originate
4 34 communications with the patient within five days of the
4 35 patient's commitment.

5 1 d. To visit the patient within fifteen days of the
5 2 patient's commitment and periodically thereafter.

5 3 e. To communicate with medical personnel treating the
5 4 patient and to review the patient's medical records pursuant
5 5 to section 229.25.

5 6 f. To file with the court quarterly reports, and
5 7 additional reports as the patient advocate feels are necessary
5 8 or as required by the court, in a form prescribed by the
5 9 court. The reports shall state what actions the patient
5 10 advocate has taken with respect to each patient and the amount
5 11 of time spent.

5 12 ~~2- 5.~~ The hospital or facility to which a patient is
5 13 committed shall grant all reasonable requests of the patient
5 14 advocate to visit the patient, to communicate with medical
5 15 personnel treating the patient, and to review the patient's
5 16 medical records pursuant to section 229.25. ~~An A patient~~
5 17 advocate shall not disseminate information from a patient's
5 18 medical records to any other person unless done for official
5 19 purposes in connection with the patient advocate's duties
5 20 pursuant to this chapter or ~~when as~~ required by law.

~~5 21 3- 6. The supreme court or, if the advocate is appointed
5 22 by the county board of supervisors, the board shall prescribe
5 23 reasonable compensation policies for the services of the
5 24 advocate patient advocates. The compensation ~~shall may, in~~
5 25 part, be based upon the reports filed by the patient advocate
5 26 with the court. The advocate's compensation shall be paid by
5 27 the county in which the court is located, either on order of
5 28 the court or, if the advocate is appointed by the county board
5 29 of supervisors, on the direction of the board. If the
5 30 advocate is appointed by the court, the advocate is an
5 31 employee of the state for purposes of chapter 669. If the
5 32 advocate is appointed by the county board of supervisors, the
5 33 advocate is an employee of the county for purposes of chapter
5 34 670.~~

5 35 ~~7.~~ If the patient or the person who is legally liable for
6 1 the patient's support is not indigent, the ~~board district~~
6 2 court shall recover the costs of compensating the patient
6 3 advocate from that person. If that person has an income level
6 4 as determined pursuant to section 815.9 greater than one
6 5 hundred percent but not more than one hundred fifty percent of
6 6 the poverty guidelines, at least one hundred dollars of the
6 7 patient advocate's compensation shall be recovered in the
6 8 manner prescribed by the ~~county board of supervisors~~ supreme
6 9 court. If that person has an income level as determined
6 10 pursuant to section 815.9 greater than one hundred fifty
6 11 percent of the poverty guidelines, at least two hundred
6 12 dollars of the patient advocate's compensation shall be
6 13 recovered in substantially the same manner prescribed ~~by the~~
6 14 ~~county board of supervisors~~ as provided in section 815.9.

6 15 Sec. 9. Section 229.25, subsection 1, Code 2007, is
6 16 amended to read as follows:

6 17 1. The information is requested by a licensed physician,
6 18 attorney, or patient advocate who provides the chief medical
6 19 officer with a written waiver signed by the person about whom
6 20 the information is sought.

6 21 Sec. 10. Section 602.1102, Code 2007, is amended by adding
6 22 the following new subsection:

6 23 NEW SUBSECTION. 6A. Patient advocates appointed pursuant
6 24 to section 229.19.

6 25 Sec. 11. ACCRUED EMPLOYEE RIGHTS.

6 26 1. Patient advocates appointed pursuant to section 229.19
6 27 shall become employees of the judicial branch effective July
6 28 1, 2007, and the judicial branch shall assume all costs
6 29 associated with the functions of the patient advocates on that
6 30 date. Patient advocates who were paid salaries by the
6 31 counties immediately prior to becoming state employees as a
6 32 result of this Act shall not forfeit accrued vacation, accrued
6 33 sick leave, or longevity, except as provided in this section.

6 34 2. The supreme court, after consulting with the department
6 35 of administrative services, shall prescribe rules to provide
7 1 for the following:

7 2 a. A person referred to in subsection 1 shall have to the
7 3 person's credit as a state employee commencing on the date of
7 4 becoming a state employee the number of accrued vacation days
7 5 that was credited to the person as a county employee as of the
7 6 end of the day prior to becoming a state employee.

7 7 b. Each person referred to in subsection 1 shall have to
7 8 the person's credit as a state employee commencing on the date
7 9 of becoming a state employee the number of accrued days of
7 10 sick leave that was credited to the person as a county
7 11 employee as of the end of the day prior to becoming a state
7 12 employee. However, the number of days of sick leave credited
7 13 to a person under this subsection and eligible to be taken
7 14 when sick or eligible to be received upon retirement shall not
7 15 respectively exceed the maximum number of days, if any, or the
7 16 maximum dollar amount as provided in section 70A.23 that state
7 17 employees generally are entitled to accrue or receive
7 18 according to rules in effect as of the date the person becomes
7 19 a state employee, except as otherwise provided in section
7 20 602.1401.

7 21 c. Commencing on the date of becoming a state employee,
7 22 each person referred to in subsection 1 is entitled to claim
7 23 the person's most recent continuous period of service in full=
7 24 time county employment as full-time state employment for
7 25 purposes of determining the number of days of vacation which
7 26 the person is entitled to earn each year. The actual vacation
7 27 benefit, including the limitation on the maximum accumulated
7 28 vacation leave, shall be determined as provided in section
7 29 70A.1 according to rules in effect for state employees of
7 30 comparable longevity, irrespective of any greater or lesser
7 31 benefit as a county employee.

7 32 3. Persons referred to in subsection 1 who were covered by
7 33 county employee life insurance and health and accident
7 34 insurance plans prior to becoming state employees as a result
7 35 of this Act shall be permitted to apply prior to becoming
8 1 state employees for life insurance and health and accident
8 2 insurance plans that are available to state employees so that
8 3 those persons do not suffer a lapse of insurance coverage as a
8 4 result of this Act. The supreme court, after consulting with
8 5 the department of administrative services, shall prescribe
8 6 rules and distribute application forms and take other actions
8 7 as necessary to enable those persons to elect to have
8 8 insurance coverage that is in effect on the date of becoming
8 9 state employees. The actual insurance coverage available to a
8 10 person shall be determined by the plans that are available to
8 11 state employees, irrespective of any greater or lesser
8 12 benefits as a county employee.

8 13 4. Commencing on the date of becoming a state employee,
8 14 each person referred to in subsection 1 is entitled to claim
8 15 the person's most recent continuous period of service in full=
8 16 time county employment as full-time state employment for
8 17 purposes of determining disability benefits as provided in
8 18 section 70A.20 according to rules in effect for state
8 19 employees of comparable longevity, irrespective of any greater
8 20 or lesser benefit as a county employee.

8 21 EXPLANATION

8 22 This bill provides for district court appointment and
8 23 judicial branch compensation of all patient advocates for
8 24 persons who have been involuntarily hospitalized for mental
8 25 illness. Under current law, except in counties with a
8 26 population of 300,000 or more where the patient advocate is
8 27 appointed by the county board of supervisors, the district
8 28 court appoints the advocate but the compensation is paid by
8 29 the county. The bill provides for assignment of the patient
8 30 advocate by the court with jurisdiction in the involuntary
8 31 hospitalization proceeding rather than based upon the county
8 32 of legal settlement, as is provided in current law. The chief
8 33 judge of a judicial district is authorized to appoint one or
8 34 more patient advocates for the judicial district.

8 35 Code section 602.1102 is amended to include patient
9 1 advocates in the list of employment positions that make up the
9 2 judicial branch.

9 3 The bill also amends other Code sections to conform usage
9 4 of the term "patient advocate".

9 5 A person who was employed by a county in service as a
9 6 patient advocate but who becomes a court employee as a result
9 7 of the bill retains accrued vacation, accrued sick leave, and
9 8 longevity credit as provided in a transition section included
9 9 in the bill.

9 10 LSB 2509HH 82

9 11 jp:rj/es/88.1